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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 ESTATE OF MARK VASQUEZ
21 PAJAS, SR., deceased, by and through
22 ROSEMARY LOPEZ, as
23 Administrator; ROSEMARY LOPEZ;
24 YVETTE PAJAS; MARK PAJAS, JR.;
25 JANEL PAJAS; XAVIER PAJAS,

Plaintiffs,

vs.

26 COUNTY OF MONTEREY;
27 SHERIFF STEVE BERNAL, in his
28 individual and official capacity;
KING CITY; KING CITY POLICE
DEPARTMENT; CHIEF TONY
SOLLECITO, in his individual and
official capacity; OFFICER STEVE
OROZCO, in his individual and official
capacity; CALIFORNIA FORENSIC
MEDICAL GROUP; CHRISTINA
KAUPP; and DOES 1-20,

Defendants.

Case No.:

COMPLAINT FOR DAMAGES:

1. Violations of Civil Rights (Fourth Amendment– Excessive Force)
2. Failure to Provide Medical Care (Fourteenth Amendment);
3. Failure to Protect from Harm in (Fourteenth Amendment);
4. Deprivation of Substantive Due Process (First and Fourteenth Amendments);
5. Medical Malpractice;
6. Failure to Furnish Medical Care;
7. Negligent Supervision, Training, Hiring, Retention;
8. Cal. Civil Code § 52.1;
9. Battery;
10. Wrongful Death;
11. Negligence.

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Early in the afternoon on January 19, 2015, King City Police Officer Steve Orozco (“Orozco”) observed 56 year old Mark Vasquez Pajas, Sr. (“Mr. Pajas”) riding his bicycle on the wrong side of the street and initiated a traffic stop. When Mr. Pajas rode his bicycle on to the sidewalk to avoid the traffic infraction, Officer Orozco resorted to ruthlessly ramming Mr. Pajas with his police cruiser in order to execute his traffic stop. This caused Mr. Pajas to also collide with a chain-link fence and suffer injuries and leg swelling. Officer Orozco placed Mr. Pajas under arrest for alleged “reckless driving,” transporting a controlled substance for sale, and resisting arrest. Officer Orozco then took Mr. Pajas to the Monterey County Jail, where he died in custody less than 24 hours later.

2. Defendants King City, County of Monterey, Natividad Medical Center, and California Forensic Medical Group were aware that Mr. Pajas was a chronic heroin user and needed immediate treatment for detoxification while in the jail. At the time of his arrest, again when he was screened, and again when he was booked, Mr. Pajas reported his daily heroin use and immediately requested medication to detox. Notwithstanding the knowledge that Mr. Pajas presented a condition that required immediate and closely monitored medical attention, Mr. Pajas was not immediately placed in a sobering cell, or provided required medical attention. Monterey County had in place substandard policies and practices for identifying and treating newly-booked inmates for drug and alcohol withdrawal. Mr. Pajas’s tragic death should not have happened—and would not have happened—if Defendants had fulfilled their duties as public safety and health care agencies and had in place policies and procedures that are standard in their fields and required by law.

3. The Estate of Mark Pajas, Sr. and Mr. Pajas’s wife and children, bring this action for damages against Defendants for violations arising out of Defendants’ violations of their civil rights, deliberate indifference and negligence that caused the

1 needless suffering and death of Mr. Pajas, and the grief and loss his wife and
2 children now endure.

3 **JURISDICTION**

4 4. This Complaint seeks damages for violations of the civil rights,
5 privileges, and immunities guaranteed by the First and Fourteenth Amendments of
6 the United States Constitution, pursuant to 42 U.S.C. §§ 1983 and 1988, and for
7 violations of California state law.

8 5. This Court has jurisdiction over this lawsuit pursuant to 28 U.S.C. §§
9 1331 and 1343.

10 6. This Court has supplemental jurisdiction over the state law claims
11 asserted herein pursuant to 28 U.S.C. § 1336, because the claims form part of the
12 same case or controversy arising under the United States Constitution and federal
13 law.

14 **VENUE**

15 7. Plaintiffs' claims arose in the County of Monterey, California. Venue
16 therefore lies in the Northern District of California pursuant to 28 U.S.C. § 1331(b)
17 (2).

18 8. Rule 3 of the Federal Rules of Civil Procedure and Local Rule 3-2(e)
19 authorize assignment to this division because a substantial part of the events of
20 omissions giving rise to Plaintiffs' claims occurred in Monterey County, which is
21 served by this division.

22 **PARTIES**

23 9. Plaintiff ROSEMARY LOPEZ, as Administrator of the Estate of
24 MARK VASQUEZ PAJAS, brings this action pursuant to California Code of Civil
25 Procedure §§ 377.10 *et seq.* At the time of his death, Mark Vasquez Pajas was a
26 citizen of the United States and resident of the County of Monterey in the State of
27 California. The survival causes of action in this matter are based on violations of
28 Mr. Pajas's rights under the First and Fourteenth Amendments, and on violations of

1 California state law.

2 10. ROSEMARY LOPEZ is the wife of Mark Pajas Sr. She is suing
3 individually for violations of civil rights under the First and Fourteenth
4 Amendments and California state law.

5 11. PLAINTIFF YVETTE PAJAS is the eldest daughter of Mr. Pajas. She
6 is suing individually for violations of civil rights under the First and Fourteenth
7 Amendments and California state law.

8 12. PLAINTIFF MARK PAJAS JR. is the eldest son of Mr. Pajas. He is
9 suing individually for violations of civil rights under the First and Fourteenth
10 Amendments and California state law.

11 13. PLAINTIFF JANEL PAJAS is the youngest daughter of Mr. Pajas.
12 She is suing individually for violations of civil rights under the First and Fourteenth
13 Amendments and California state law.

14 14. PLAINTIFF XAVIER PAJAS is the youngest son of Mr. Pajas. He is
15 suing individually for violations of civil rights under the First and Fourteenth
16 Amendments and California state law.

17 15. Defendant COUNTY OF MONTEREY is a public entity, duly
18 organized and existing under the laws of the State of California. Under its authority,
19 Defendant County of Monterey operates and manages Monterey County Jail and is
20 and was at all relevant times mentioned herein responsible for the actions and/or
21 inactions and the policies, procedures, and practices/customs of the Monterey
22 County Sheriff's Department and Monterey County Jail, and each entity's
23 respective employees and/or agents. Monterey County Sheriff's Department
24 operates Monterey County Jail, and is and was responsible for ensuring the
25 provision of emergency and medical services to all Monterey County Jail inmates.

26 16. Defendant STEVE BERNAL is, and was at all relevant times
27 mentioned herein, the Sheriff of the County of Monterey, the highest position in the
28 Monterey County Sheriff's Department. As Sheriff, Defendant Bernal is and was

1 responsible for the hiring, screening, training, retention, supervision, discipline,
2 counseling, and control of all Monterey Sheriff's Department custodial employees
3 and/or agents and Does 1 through 10. Defendant Bernal is and was charged by law
4 with the administration of the Monterey County Jail, with the assistance of a small
5 group of executive officers. Defendant Bernal also is and was responsible for the
6 promulgation of the policies and procedures and allowance of the practices/customs
7 pursuant to which the acts of the Monterey County Sheriff's Department alleged
8 herein were committed. Defendant Bernal is being sued in his individual and
9 official capacities.

10 17. Defendant KING CITY is a municipality duly organized and existing
11 under the laws of the State of California. Defendant KING CITY POLICE
12 DEPARTMENT is a duly formed agency of King City. Under its authority,
13 Defendant King City is and was at all relevant times mentioned herein responsible
14 for the actions and/or inactions and the policies, procedures, and practices/customs
15 of the King City Police Department and its respective employees and/or agents.
16 Defendant Steve Orozco, a King City police officer, assaulted Mr. Pajas with his
17 car while Mr. Pajas was riding a bicycle and then arrested and detained Mr. Pajas
18 on January 19, 2015.

19 18. Defendant TONY SOLLECITO is, and was at all relevant times
20 mentioned herein, the Chief of the King City Police Department, the highest
21 position in the Department. As Chief, Defendant Sollecito is and was responsible
22 for the hiring, screening, training, retention, supervision, discipline, counseling, and
23 control of all King City Police Department employees and/or agents and Does 11
24 through 15. Defendant Sollecito also is and was responsible for the promulgation of
25 the policies and procedures and allowance of the practices/customs pursuant to
26 which the acts of the King City Police Department alleged herein were committed.
27 Defendant Sollecito is being sued in his individual and official capacities.

28 19. Defendant STEVE OROZCO is, and was at all relevant times

1 mentioned herein, an Officer of Defendant King City's Police Department.
2 According to police records, Defendant Orozco hit Mr. Pajas with his police car,
3 arrested him on January 19, 2015, transported Mr. Pajas to Natividad Medical
4 Center for jail clearance, and then delivered him into the custody of officials at the
5 Monterey County Jail. Defendant Orozco is being sued in his individual and official
6 capacities.

7 20. Defendant CALIFORNIA FORENSIC MEDICAL GROUP
8 ("CFMG") is a California corporation headquartered in Monterey, California.
9 CFMG is a private correctional health care provider that services approximately 65
10 correctional facilities in 27 California counties. The County of Monterey contracts
11 with CFMG to provide medical, mental health, and dental services for the Monterey
12 County Jail. At all relevant times mentioned herein, CFMG was responsible for the
13 medical services provided to Mr. Pajas during his detention in the Monterey County
14 Jail.

15 21. Defendant CHRISTINA KAUPP, RN is, and was at all relevant times
16 mentioned herein, a nurse employed by CFMG at the Monterey County Jail.
17 According to Mr. Pajas's medical records and investigative reports regarding his
18 death, Defendant Kaupp was one of the persons charged with Mr. Pajas's medical
19 care while he was in the custody of officials at the Monterey County Jail. Defendant
20 Kaupp did not take Mr. Pajas's vital signs while he was in jail. Kaupp also
21 dismissed Mr. Pajas when he told her he could not move and could not get up for
22 her to take his vitals at about 1:00 P.M. on January 20—one hour before he died.
23 Kaupp disbelieved Mr. Pajas's complaint that he was immobile because other
24 deputies had allegedly seen him walking earlier. Rather than treat Mr. Pajas's
25 inability to move a serious symptom requiring medical attention, Kaupp left Mr.
26 Pajas's cell without taking his vitals or providing him any medical attention.

27 22. The true names and identities of Defendants Does 1 through 10 are
28 presently unknown to Plaintiffs. Plaintiffs allege that each of Defendants Does 1

1 through 10 are custody and/or medical staff at Monterey County Jail who were
2 responsible for ensuring Mr. Pajas's safety and providing adequate health
3 treatment. Plaintiffs allege that each of Defendants Does 1 through 10 was
4 deliberately indifferent to Mr. Pajas's medical needs and safety, failed to provide
5 necessary medical care to him, violated his civil rights, wrongfully caused his
6 death, and/or encouraged, directed, enabled and/or ordered other defendants to
7 engage in such conduct. Plaintiffs further allege that Defendants Does 1 through 10
8 violated Plaintiffs' First and Fourteenth Amendment rights and rights under
9 California state law. Plaintiffs further allege that each of Defendants Does 1
10 through 10 was responsible for the hiring, screening, training, retention,
11 supervision, discipline, counseling, and control of medical, mental health, and jail
12 custody employees and/or agents involved in the conduct alleged herein.

13 23. The true names and identities of Defendants Does 11 through 15 are
14 presently unknown to Plaintiffs. Plaintiffs allege that each of Defendants Does
15 11through 15 was employed by King City Police Department at the time of the
16 conduct alleged herein. Plaintiffs allege that each of Defendants Does 11 through
17 15 violated Mr. Pajas's civil rights, wrongfully caused his death, and/or
18 encouraged, directed, enabled and/or ordered other defendants to engage in such
19 conduct. Plaintiffs further allege that Defendants Does 11 through 15 violated
20 Plaintiffs' First and Fourteenth Amendment rights and rights under California state
21 law. Plaintiffs further allege that each of Defendants Does 11 through 15 was
22 responsible for the hiring, screening, training, retention, supervision, discipline,
23 counseling, and control of the police department employees and/or agents involved
24 in the conduct alleged herein.

25 24. The true names and identities of Defendants Does 16 through 20 are
26 presently unknown to Plaintiffs.

27 25. Plaintiffs will seek to amend this Complaint as soon as the true names
28 and identities of Defendants Does 1 through 20 have been ascertained.

26. Defendants Steve Bernal, Tony Sollecito, and Steve Orozco and Does 1 through 20 engaged in the acts or omissions alleged herein under color of state law.

27. Plaintiffs are informed and believe and thereon allege that at all times mentioned in this Complaint, Defendants were the agents, employees, servants, joint venturers, partners and/or co-conspirators of the other Defendants named in this Complaint and that at all times, each of the Defendants was acting within the course and scope of said relationship with Defendants.

EXHAUSTION OF PRE-LAWSUIT PROCEDURES FOR STATE LAW CLAIMS

28. All Plaintiffs timely filed governmental tort claims with Defendants County of Monterey, and King City including on behalf of the Estate of Mark Pajas Sr., on July 17, 2015.

29. By various letters dated August 28, 2015 and addressing each tort claim in turn, the County of Monterey rejected all of the governmental tort claims filed by Plaintiffs.

30. Likewise, in one letter dated October 27, 2015, King City rejected the tort claims filed by Plaintiffs.

31. By correspondence dated July 30, 2015, Plaintiffs notified Defendants County of Monterey, Natividad Medical Center, CFMG, and Dr. Wasserman of their intention to file suit against them based on their negligence in providing professional health care services, as required by Section 364 of the California Code of Civil Procedure.

FACTUAL ALLEGATIONS

I. History of Inadequate Medical Care in Monterey County Jail

32. The County of Monterey and CFMG have a policy and practice of failing to provide adequate medical care to inmates at Monterey County Jail, and are deliberately indifferent to the fact that their failure to do so subjects inmates to

1 substantial risk of unnecessary suffering, serious injury and death.

2 33. The County of Monterey and CFMG have been on notice that their
3 provision of medical care to inmates is inadequate and results in needless harm
4 since at least 2007, when the Monterey County Sheriff's Office and the Monterey
5 County Board of Supervisors hired an outside consulting firm to perform a needs
6 assessment for the Jail.

7 34. The independent assessment was updated in 2011 and found that the
8 County of Monterey and CFMG's medical/health treatment spaces are not adequate
9 for the rated beds and inmates held. (See Exhibit 1.)

10 35. Moreover, the Assessment found that chronic understaffing hinders
11 County of Monterey's ability to provide medical care, classify and move inmates
12 within the facility, maintain inmate safety and security, and transport inmates to and
13 from outside agencies. (Exhibit 1 at G.1–G.3, J.2–J.3.)

14 36. The County of Monterey and CFMG maintain insufficient numbers of
15 health care professionals to provide adequate care to the more than 900 inmates.
16 The available health care staff is insufficient to provide medical evaluations,
17 monitoring, and follow-up care to inmates who are suffering from serious and
18 chronic illnesses, or to treat inmates on an emergency basis. (See Exhibit 1 at EX.
19 6-7).

20 37. Moreover, as early as April 15, 2013, prior to Mr. Pajas's death, the
21 County of Monterey was again specifically put on notice of serious problems with
22 detoxification and sobering treatment in the jail by a letter written by class counsel
23 in the *Hernandez et. al. v. County of Monterey et al.* matter (Case No. 5:13-cv-
24 2354-PSG). See Exhibit 2. *Hernandez* is a class action lawsuit seeking, *inter alia*,
25 injunctive relief to address conditions in the Monterey County jail that violate the
26 Eighth and Fourteenth Amendments, and the Americans with Disabilities Act. The
27 letter from *Hernandez* class counsel specifically objected to the fact that
28 defendants' agents and staff were employing a dangerous and punitive "detox

1 protocol,” refusing medications to inmates who then suffered from intense,
 2 untreated pain as well as powerful, dangerous and unnecessary withdrawal
 3 symptoms.

4 38. Additionally, in 2014 and 2015, the Monterey County Civil Grand
 5 Jury undertook an inquiry into the condition and management of the Monterey
 6 County Jail and found numerous problems. Importantly, after auditing the Daily 24-
 7 Hour Files of Jail compliance for January 2015, the same month in which Mr. Pajas
 8 died, the Grand Jury Report found that “inmate health and welfare (safety checks)
 9 are frequently missed or skipped or not adequately documented.” Exhibit 3. For
 10 example, the Grand Jury found that on January 14, 2015, jail staff missed or
 11 skipped welfare checks, and that some logs were incorrectly or falsely filled out,
 12 with checks being claimed when they were not done. Exhibit 3 (Excerpts of the
 13 2014-2015 Monterey County Civil Grand Jury Final Report).

14 39. In April 2015, the District Court presiding over the *Hernandez* matter
 15 found substantial evidence of practices at the jail that place detoxifying inmates at
 16 risk. Specifically, the court in *Hernandez* found the following deficiencies:

17 Defendants use custody staff to perform intake screenings to
 18 identify those who might be at risk for withdrawal symptoms when
 19 they are first booked into the jail. While the jail’s screening procedures
 20 do not specify who should decide if a newly admitted inmate should be
 21 placed in a sobering or detoxification cell, in practice custody officers
 22 also routinely make this decision. Medical staff is not responsible for
 23 initial evaluations and placement of persons into sobering or
 24 detoxification cells . . . [I]t is a “major problem” that correctional
 25 officers conduct intake screenings. “Officers are not trained to identify
 26 persons at risk for withdrawal, to evaluate persons who appear to be
 27 intoxicated, or to make medical decisions with respect to isolation for
 28 this purpose. This should be done by medical professionals [,] not
 custody officers.

 The jail does not reliably monitor inmates as they detoxify.
 Though Defendants’ policy requires that nurses consult with a
 physician if a patient displays any one of eight abnormal signs . . . this
 does not happen. Though [a neutral expert] was told that physicians
 are supposed to see all withdrawing patients within 24 hours, [the
 expert] found this also did not happen. [The expert] concluded,
 “alcohol and other drug withdrawal syndromes are managed by
 officers and nurses without physician supervision.”

 . . . The jail also practices a single drug protocol for alcohol,
 benzodiazepine and opiate withdrawal, even though these are distinct

1 conditions requiring different medications and dosing periods for each.
 2 Under the protocol, nursing staff—not physicians—decide whether to
 3 medicate a withdrawing inmate. [A neutral expert] found that
 4 “[placing all individuals who are withdrawing into a single protocol
 5 will invariably result in inappropriate treatment for individual
 6 patients.”

7 . . . CFMG’s own policies provide that a nurse does not conduct
 8 an assessment until *after* custody staff has placed the inmate in the
 9 sobering cell and notified medical staff.

10 *See Hernandez v. Cty. of Monterey*, 110 F. Supp. 3d 929, 948-51 (N.D. Cal. 2015).

11 40. To address these deficiencies, the District Court issued a preliminary
 12 injunction in April 2015, and ordered the County to file a plan to remedy these, and
 13 many other constitutional and statutory violations. The Court ordered, in relevant
 14 part, that the County’s plan should include these elements:

- 15 a. Medical staff shall timely conduct the initial evaluation to determine if
 16 an inmate is intoxicated and/or suffering from withdrawal or at high
 17 risk for withdrawal;
- 18 b. Medical staff shall make the decision on who should be placed in a
 19 sobering cell and who should be transferred to the hospital to be
 20 treated for possible or actual withdrawal;
- 21 c. Medical providers (physicians, physicians assistants, and/or nurse
 22 practitioners) shall be timely involved in assessing and treating
 23 inmates potentially undergoing withdrawal, and non-provider medical
 24 staff shall timely refer to providers those inmates undergoing
 25 withdrawals when clinically indicated;
- 26 d. Detoxifying inmates shall be adequately monitored using the CIWA
 27 protocol or equivalent validated monitoring protocol, shall receive
 28 pharmacological treatment as indicated and be appropriately housed
 based on their clinical conditions;
- 29 e. Defendants shall develop separate treatment protocols for opiate,
 30 alcohol and benzodiazepine withdrawal . . .

31 *Hernandez v. Cty. of Monterey*, 110 F. Supp. 3d 929, 959 (N.D. Cal. 2015)

32 **II. Mark Pajas’s Arrest and Death**

33 **A. *Mark Pajas’s Family History***

34 41. Mark Vasquez Pajas, Sr. was born in 1958 in Salinas, California to a
 35 family of Philippino and Mexican farm workers. Mr. Pajas’s father and mother
 36 provided for him and their eight children through jobs in the agriculture industry.
 37 Mr. Pajas’s father picked grapes in the local fields and his mother sorted and
 38

1 packaged potatoes. The family eventually moved to Greenfield, where Mr. Pajas
2 and his eventual wife Rosemary Lopez met as teenagers.

3 42. Mr. Pajas and Rosemary Lopez married in 1978, and together raised
4 four children, Yvette, Mark Jr., Janel and Xavier. The family, including Mr. Pajas's
5 mother and father, was very close and supportive of each other.

6 43. Mr. Pajas began struggling with substance abuse as a teen. His battles
7 with substance abuse resulted in multiple drug-related arrests and stints of
8 incarceration from the time he was a youth through 2008. After his release from
9 state prison in 2008, Mr. Pajas successfully remained out of prison and was able to
10 be present for his children and grandchildren. Although his arrest record presented
11 difficulties finding employment, Mr. Pajas wanted to provide for his family, and
12 took whatever jobs he could find. He did his best to shield his children and
13 grandchildren from his substance abuse, and maintained strong relationships with
14 his family despite his personal struggles. For example, the family made it a point of
15 connecting over meals. Mr. Pajas normally had breakfast or lunch with his youngest
16 son Xavier, and dinner with Rosemary and Xavier. Mr. Pajas spoke on the phone,
17 or exchanged text messages, with his other children and grandchildren on an almost
18 daily basis.

19 ***B. Mark Pajas's Arrest***

20 44. Mr. Pajas generally rode his bicycle every day to the local Denny's to
21 pick up the Salinas, California newspaper.

22 45. On January 19, 2015, while Mr. Pajas was riding his bicycle on this
23 routine, Defendant King City Police Officer Orozco allegedly observed by Mr.
24 Pajas riding in the opposite direction of traffic in violation of CV 21650 (traveling
25 on the wrong side of the roadway). According to Orozco's Arrest Report, he
26 verbally commanded Mr. Pajas to stop, and Mr. Pajas responded that he was just
27 going to the bus stop and refused to stop. Orozco reported that he pursued Mr.
28 Pajas in his cruiser, and activated his overhead emergency lights.

1 46. According to Orozco's police report, Mr. Pajas was no longer on the
2 street, at the time of his stop. Defendant Orozco's pursuit of Mr. Pajas with his
3 police car ended with Mr. Pajas crashing into a chain-link fence on his bike and
4 sustaining injuries.

5 47. On information and belief, Defendant Orozco used his police cruiser as
6 a weapon to end the pursuit, driving up onto a sidewalk and slamming Mr. Pajas
7 and his bike into a chain link fence.

8 48. According to Defendant Orozco's Report, he maneuvered his police
9 car onto the sidewalk to block the sidewalk onto which Mr. Pajas had ridden
10 bicycle. Orozco claimed that Mr. Pajas attempted to ride his bicycle around
11 Orozco's patrol car, and this caused Pajas to collide with a chain-link fence.

12 49. Officer Orozco's arrest report claims that as a result of this collision,
13 "Pajas was not hurt but he did have a medical problem which had caused his legs to
14 swell up."

15 50. After hitting Mr. Pajas with his car, Orozco arrested him at 12:12 P.M.
16 Rather than call an ambulance or otherwise secure medical attention for Mr. Pajas,
17 Orozco placed him in the back of his cruiser and transported him to the King City
18 Police Department for booking.

19 51. Mr. Pajas's booking photo, taken at 12:45 P.M., shows him in obvious
20 distress with watery eyes, a flushed and sweaty face, and a pained expression.
21 Despite Orozco's awareness that Mr. Pajas was experiencing leg swelling, and the
22 obvious signs of physical distress, Orozco again did not secure immediate medical
23 attention for Mr. Pajas at the King City station. Instead, Orozco placed him in a
24 holding cell.

25 52. Nearly four hours later, Orozco finally took Mr. Pajas to Natividad
26 Medical Center. During Mr. Pajas's evaluation, Mr. Pajas informed Dr. Wasserman
27 and the triage nurse that he was a regular heroin user that he had battled heroin
28 addiction for many years and had successfully detoxed on numerous previous

1 occasions, and would need help for the withdrawal symptoms he expected during
2 his incarceration. Dr. Daniel Wasserman examined Mr. Pajas and diagnosed him
3 with cellulitis, leg swelling, and shortness of breath. Wasserman also noted that Mr.
4 Pajas suffered “Congestive heart failure with not elevated BNP” and ordered in the
5 discharge instructions that “If [Pajas] develop[s] chest pain or shortness of breath
6 return to the ER immediately.” With these instructions, Wasserman medically
7 cleared Mr. Pajas for jail at 6:30 p.m.

C. County of Monterey's Denial of Medical Care Leads to Mr. Pajas's Death

10 53. Orozco transported Mr. Pajas to Monterey County Jail, where the
11 Monterey County Sheriff's Office ("MCSO") took custody of him at approximately
12 6:55 p.m. on January 19, 2015.

13 54. During the Monterey County Sheriff's Office "Intake Health
14 Screening" conducted by Deputy R. Silva at 6:55 P.M., Mr. Pajas reported that he
15 used ¾ grams of heroin daily and had used heroin earlier that day.

16 55. During the “Intake Triage Assessment” by the County’s contracted
17 health provider, Defendant CFMG, at 7:00 p.m., Mr. Pajas told staff he had used “a
18 lot” of heroin “earlier today” and stated, “he is ‘coming down’ and needs meds to
19 help him.” The CFMG medical staff noted that Mr. Pajas was to be placed on
20 “opiate detox” and specified a series of medications to be taken throughout the
21 following days. In addition to medication, Mr. Pajas’s vital signs were to be
22 checked throughout the day. Although this plan is recorded on a document titled
23 “Doctors Orders,” and Mr. Pajas presented with a condition that obviously required
24 immediate and closely monitored medical attention, he does not appear to have ever
25 been seen by a doctor in the jail.

26 56. Moreover, Defendants policies and procedures do not actually have
27 separate treatment protocols for opiate, alcohol and benzodiazepine withdrawal.
28 Rather, their policies address only alcohol detoxification protocols, and apparently

1 assume staff will employ those in all cases of substance withdrawal.

2 57. Under the County's deficient protocols, nursing staff—not
3 physicians—decide whether to medicate a withdrawing inmate. The protocols also
4 place the burden of assigning an inmate to a sobering cell on deputies who are not
5 medically trained. In accordance with this protocol, it appears Mr. Pajas was not
6 seen by a doctor at the jail, but rather nursing staff wrote “orders” for Mr. Pajas that
7 direct “Sick Call in 72 hours for re-evaluation,” rather than close and immediate
8 evaluation.

9 58. Defendants' policies also fail to specify the timeframe in which an
10 inmate requiring detoxification must be placed in a sobering cell. Although
11 Defendants were aware at the time of intake that Mr. Pajas was suffering
12 withdrawal from heroin and needed detoxification, housing records indicate that
13 they did not place Mr. Pajas in a sobering cell until approximately 4:17 A.M. on
14 January 20—more than nine hours after he was brought to the Jail.

15 59. At 4:45 A.M., CFMG nursing staff finally assessed Mr. Pajas in the
16 sobering cell. Although the nurse reported that he had vomited in the cell, the nurse
17 failed to take his vitals. The next medical assessment documented in a
18 “Sobering/Safety Cell/Restraints Log” sheet, almost four hours later, at 8:30 A.M.,
19 noted Mr. Pajas was “laying on the cell floor” and that he “wants Gatorade.” Again,
20 the nurse did not take any vital signs. In fact, the records reflect that another
21 patient's vital signs were actually erroneously listed on the records for Mr. Pajas's
22 8:30 A.M. check, and then crossed out with a notation reading “error wrong
23 [patient].”

24 60. Defendants did not assess Mr. Pajas again until 1 P.M. At that time,
25 Defendant and Registered Nurse Christina Kaupp reported that Mr. Pajas was still
26 laying on the floor and “stated he can't move.” However, Nurse Kaupp stated in her
27 report that she did not believe he could not move because deputies had allegedly
28 “witnessed [him] walking around cell moments prior.” Nurse Kaupp then left

1 without taking Mr. Pajas's vitals.

2 61. In fact, although Defendants' policies require that an inmate-patient in
3 a sobering cell be checked by custody every 15 minutes, the logs for Mr. Pajas
4 show that between the hours of 4 A.M. and 2 P.M., deputies failed to conduct these
5 15 minute rounds. Rather, there were intervals of up to 40 minutes between checks
6 by deputies.

7 62. At approximately 2:12 P.M., one hour after Mr. Pajas reported to
8 Nurse Kaupp that he could not move, two MCSO deputies found Mr. Pajas face
9 down and unconscious in a pool of his own vomit.

10 63. These deputies found Mr. Pajas not because they were performing the
11 required safety check every 15 minutes as required, but because they were
12 attempting to place another inmate into the same sobering cell. Their last check on
13 Mr. Pajas in Detox Cell No. 1, was over 20 minutes prior, at 1:49 P.M.

14 64. Upon finding Mr. Pajas, rather than render immediate medical care,
15 the deputies escorted the second inmate into a different sobering cell. For the next
16 two minutes, all the deputies did was call out to Mr. Pajas to solicit a response.

17 65. At approximately 2:16 P.M., another deputy arrived at Mr. Pajas's cell
18 and, according to Jail records, attempted to provide emergency aid to Mr. Pajas
19 until emergency medical personnel arrived at 2:21 P.M.

20 66. At approximately 2:37 P.M., Mr. Pajas was transported to Natividad
21 Medical Center. The "On-site Emergency Response Record" prepared by CFMG,
22 observed that he was in "grave condition" at the time of transport. At 2:53 P.M.—
23 less than 24 hours after he had been booked at Monterey County Jail—he was
24 pronounced dead.

25 67. Despite Mr. Pajas's repeated requests for medical care, and the
26 obvious signs of his medical distress, Defendants ignored their legal obligations to
27 treat and monitor his drug/opiate detoxification. Defendants failed to conduct any
28 health screenings, to have him evaluated by a doctor or nurse practitioner, to take

1 appropriate measures to treat his detoxification, to appropriately monitor his health,
2 to administer his medications and treatment as ordered, to immediately place him in
3 a sobering cell, or to conduct welfare checks every fifteen minutes. Defendants also
4 failed to summon or provide necessary medical attention in response to Mr. Pajas's
5 condition at 1 P.M. when he reported that he could not move. In fact, medical staff
6 did not check on him again for another hour, when he was found unconscious in his
7 own vomit.

8 68. As a result of Defendants' actions and omissions, Mr. Pajas died a
9 wholly preventable death, suffering, in pain and alone. His wife, children, and
10 grandchildren lost their loved one, and continue to experience the pain and
11 suffering of this loss.

12 **CLAIMS FOR RELIEF**

13 **FIRST CLAIM FOR RELIEF**

14 **Excessive Force in Violation of Fourth Amendment to the U.S. Constitution** 15 **(Survival Action – 42 U.S.C. § 1983)**

16 **(Against King City Police Department, Tony Sollecito, Steve Orozco, 17 and Does 1 through 20)**

18 69. Plaintiffs re-allege and incorporate by reference paragraphs 1 through
19 68 as though fully set forth herein.

20 70. The conduct complained of herein was undertaken pursuant to the
21 policies, practices, and customs of the King City Police Department, an agency of
22 King City, and was sanctioned and approved by each of the individual named
23 Defendants including the Doe Defendants.

24 71. Defendants, acting under color of state law and through their policies,
25 practices and customs, deprived Plaintiff of rights, privileges, and immunities
26 secured by the Constitution and the laws of the United States under the Fourth
27 Amendment by subjecting Mr. Pajas, or through their deliberate indifference
28 allowing others to subject him, to unreasonable, unnecessary, and excessive force

by slamming him with a police car allegedly in order to stop him for a minor traffic infraction while he was riding his bicycle.

72. As a direct and proximate result of Defendants' conduct, Mr. Pajas was injured as set forth above, experienced physical pain, severe emotional distress, and mental anguish, as well as loss of his life and other damages alleged herein.

73. Plaintiff's injuries entitle Plaintiffs to compensatory damages, and also punitive damages against Defendants Sollecito and Orozco in their individual capacities.

SECOND CLAIM FOR RELIEF

**Deliberate Indifference to Serious Medical Needs in Violation of the
Fourteenth Amendment to the Constitution of the United States
(Survival Action – 42 U.S.C. § 1983)**

(Against Defendants County of Monterey, Steve Bernal, California Forensic Medical Group, Christina Kaupp and Does 1 through 20)

74. Plaintiffs re-allege and incorporate by reference paragraphs 1 through
73 as though fully set forth herein.

75. Defendants have inadequate policies, procedures, and practices for identifying inmates in need of medical treatment and providing appropriate medical treatment. Defendants also fail to appropriately train and supervise staff regarding the provision of treatment to inmates with medical issues.

76. Defendants have consistently demonstrated deliberate indifference to their constitutional obligation to provide minimally adequate medical care to inmates in their jails. Defendants' failure to correct their policies, procedures, and practices, despite longstanding and repeated notice of significant and dangerous deficiencies, evidences deliberate indifference in the provision of medical treatment.

77. Defendants were specifically on notice that Mr. Pajas was in need of urgent medical attention for severe heroin withdrawal symptoms and injuries

1 sustained after being hit by a King City Police car.

2 78. Defendants failed to provide necessary medical treatment to Mr. Pajas
3 while he was in their custody and care despite his obvious signs of medical distress.

4 79. Defendants' acts and/or omissions as alleged herein, including but not
5 limited to their failure to provide Mr. Pajas with appropriate medical care, failure to
6 promulgate appropriate policies and procedures in order to provide treatment to
7 inmates who require detoxification, and failure to appropriately train and/or
8 supervise their staff, constituted deliberate indifference to Mr. Pajas's serious
9 medical needs, health and safety.

10 80. As a direct and proximate result of Defendants' conduct, Mr. Pajas
11 experienced physical pain, severe emotional distress, and mental anguish, as well as
12 loss of his life and other damages alleged herein.

13 81. The aforementioned acts and/or omissions of Defendants Bernal, in his
14 individual capacity, Kaupp, and CFMG were willful, wanton, malicious, and
15 oppressive, thereby justifying an award to Plaintiffs of exemplary and punitive
16 damages to punish the wrongful conduct alleged herein and to deter such conduct in
17 the future.

18 **THIRD CLAIM FOR RELIEF**

19 **Failure to Protect from Harm in Violation of the Fourteenth Amendment to**

20 **the Constitution of the United States**

21 **(Survival Action – 42 U.S.C. § 1983)**

22 **(Against Defendants County of Monterey, Steve Bernal, King City, Tony**
23 **Sollecito, Steve Orozco, Christina Kaupp, California Forensic Medical Group,**
24 **and Does 1 through 20)**

25 82. Plaintiffs re-alleges and incorporate by reference paragraphs 1 through
26 81 as though fully set forth herein.

27 83. Each Defendant could have taken action to prevent unnecessary harm
28 to Mr. Pajas but refused or failed to do so.

1 84. Defendants Monterey County, Steve Bernal, and CFMG failed to have
2 minimally necessary policies and procedures concerning the adequate treatment of
3 Mr. Pajas, whom they knew or should have known was in need of medical attention
4 for his heroin addiction and being hit by a police car.

5 85. Defendants Monterey County, Steve Bernal, and CFMG have
6 consistently demonstrated deliberate indifference to their constitutional obligation
7 to provide minimally adequate medical care to inmates in their jails. Defendants'
8 failure to correct their policies, procedures, and practices, despite longstanding and
9 repeated notice of significant and dangerous deficiencies, evidences deliberate
10 indifference in the provision of medical treatment.

11 86. Defendants Monterey County, CMFG, and Kaupp were specifically on
12 notice that Mr. Pajas was in need of urgent medical attention for severe heroin
13 withdrawal symptoms and injuries sustained after being hit by a King City Police
14 car.

15 87. Defendants Monterey County, Steve Bernal, CFMG, and Kaupp failed
16 to provide necessary medical treatment to Mr. Pajas while he was in their custody
17 and care despite his obvious signs of medical distress.

18 88. Defendant Monterey County deputies also failed to conduct required
19 safety checks in fifteen minute intervals as required.

20 89. The acts and/or omissions of Defendants Monterey County, Steven
21 Bernal, CFMG, and Kaupp as alleged herein, including but not limited to their
22 failure to provide Mr. Pajas with appropriate medical care, failure to promulgate
23 appropriate policies and procedures in order to provide treatment to inmates who
24 require detoxification, and failure to appropriately train and/or supervise their staff,
25 constituted deliberate indifference to Mr. Pajas's serious medical needs, health and
26 safety.

27 90. Defendants King City and Steve Orozco also used excessive force in
28 apprehending Mr. Pajas, and then failed to provide Mr. Pajas with medical attention

1 notwithstanding King City's knowledge that Mr. Pajas had been hit by a police car.

2 91. Defendants King City and Steve Orozco were specifically on notice
3 that Mr. Pajas was in need of urgent medical attention for severe heroin withdrawal
4 symptoms and injuries sustained after being hit by a King City Police car.

5 92. Defendants King City and Steve Orozco failed to immediately provide
6 necessary medical treatment to Mr. Pajas while he was in their custody and care
7 despite his obvious signs of medical distress. Instead, waiting nearly four hours
8 before taking him for treatment at Natividad Medical Center.

9 93. The acts and/or omissions of Defendants King City, Tony Sollecito,
10 and Steve Orozco as alleged herein, including but not limited to their failure to
11 provide Mr. Pajas with immediate and appropriate medical care, failure to
12 promulgate appropriate policies and procedures in order to provide treatment to
13 persons injured during arrests and who require detoxification, and failure to
14 appropriately train and/or supervise their staff, constituted deliberate indifference to
15 Mr. Pajas's serious medical needs, health and safety.

16 94. Mr. Pajas also placed all Defendants on notice that he used heroin
17 earlier that day, was a regular heroin user, and would be suffering withdrawal
18 symptoms. Mr. Pajas notified custodial and medical staff that he needed
19 medication. Monterey County and CFMG have failed to promulgate appropriate
20 policies and procedures in order to provide treatment to inmates who require
21 detoxification. Defendants also failed to create minimally necessary policies and
22 procedures for ensuring that medical staff provided known substance users with
23 adequate and necessary medical treatment. Lastly, Defendants failed to train and
24 supervise medical staff to treat inmates who are detoxing or suffering withdrawal.

25 95. Defendants' acts and/or omissions as alleged herein, including but not
26 limited to their failure to follow a mandated and lifesaving treatment plan, their
27 failure to create minimally necessary policies and procedures for ensuring that
28 medical staff provided inmates who are detoxing with adequate and necessary

1 medical treatment, and their failure to train and supervise medical staff to treat
 2 inmates with serious and life threatening illnesses, constituted deliberate
 3 indifference to Mr. Pajas's serious medical needs and safety.

4 96. As a direct and proximate result of Defendants' conduct, Mr. Pajas
 5 experienced physical pain, severe emotional distress, and mental anguish, as well as
 6 loss of his life and other damages alleged herein.

7 97. The aforementioned acts and/or omissions of Defendants Bernal, in his
 8 individual capacity, Sollecito, in his individual capacity, Orozco, in his individual
 9 capacity, Kaupp, and CFMG were willful, wanton, malicious, and oppressive,
 10 thereby justifying an award to Plaintiffs of exemplary and punitive damages to
 11 punish the wrongful conduct alleged herein and to deter such conduct in the future.

12 **FOURTH CLAIM FOR RELIEF**

13 **Deprivation of Substantive Due Process Rights in Violation of First and**
 14 **Fourteenth Amendments to the Constitution of the United States – Loss of**
 15 **Parent/Child Relationship (42 U.S.C. § 1983)**

16 **(Against all Defendants)**

17 98. Plaintiffs re-allege and incorporate by reference paragraphs 1 through
 18 97 as though fully set forth herein.

19 99. The aforementioned acts and/or omissions of Defendants in being
 20 deliberatively indifferent to Mr. Pajas's serious medical needs, health and safety,
 21 violating Mr. Pajas's constitutional rights, and their failure to train, supervise,
 22 and/or take other appropriate measures to prevent the acts and/or omissions that
 23 caused the untimely and wrongful death of Mr. Pajas deprived Plaintiffs of their
 24 liberty interest in a husband-wife and parent-child relationship in violation of their
 25 substantive due process rights as defined by the First and Fourteenth Amendments
 26 to the United States Constitution.

27 100. As a direct and proximate result of the aforementioned acts and/or
 28 omissions of Defendants, Plaintiffs suffered injuries and damages as alleged herein.

101. The aforementioned acts and/or omissions of Defendants Bernal, in his individual capacity, Sollecito, in his individual capacity, Orozco, in his individual capacity, Kaupp, and CFMG were willful, wanton, malicious, and oppressive, thereby justifying an award to Plaintiffs of exemplary and punitive damages to punish the wrongful conduct alleged herein and to deter such conduct in the future.

FIFTH CLAIM FOR RELIEF

Medical Malpractice (Survival Actions – California State Law)

(Against Defendants County of Monterey, Christina Kaupp, California

Forensic Medical Group, and Does 1 through 20)

102. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 101 as though fully set forth herein.

103. Defendants failed to comply with professional standards in the treatment of Mr. Pajas's serious medical illness by failing to evaluate, diagnose and treat injuries related to being hit by a police car, ignoring repeated requests for medical care, failing to address obvious signs of medical distress, and ignoring the duties of medical staff to treat and monitor his drug/opiate detoxification. Furthermore, Defendants failed to conduct any health screenings, to take appropriate measures to treat his detoxification, to appropriately monitor his health and to administer his medications and treatment as ordered.

104. Defendants also failed to appropriately supervise, review, and ensure the competence of medical staff's provision of treatment to Mr. Pajas, and failed to enact appropriate standards and procedures that would have prevented such harm to him.

105. As a direct and proximate cause of this negligence and failure to meet their professional standards of care of Mr. Pajas, Plaintiffs suffered injuries and damages as alleged herein.

106. The negligent conduct of these Defendants was committed within the course and scope of their employment.

107. The aforementioned acts and/or omissions of Defendants Kaupp, and CFMG were willful, wanton, malicious, and oppressive, thereby justifying an award to Plaintiffs of exemplary and punitive damages to punish the wrongful conduct alleged herein and to deter such conduct in the future.

SIXTH CLAIM FOR RELIEF

Failure to Furnish / Summon Medical Care

(Survival Action – California State Law)

(Against Defendants County of Monterey, Steve Bernal, King City, Steve Orozco, California Forensic Medical Group, Christina Kaupp and Does 1 through 20)

108. Plaintiffs re-allege and incorporate by reference paragraphs 1 through
107 as though fully set forth herein.

109. Defendants owed Mr. Pajas a duty of care to provide him immediate medical care.

110. The conduct of Defendants alleged herein, including but not limited to the facts that Defendants knew or had reason to know that Mr. Pajas was in need of immediate medical care and that Defendants failed to take reasonable action to summon or provide that care, resulting in Mr. Pajas's death as alleged herein, violated California state law, including Cal.Govt. Code §§ 844.6 and 845.6.

111. Defendants failed to evaluate, diagnose and treat Mr. Pajas's injuries related to being hit by a police car, and also failed to timely and appropriately respond to Mr. Pajas's obvious signs of medical distress on numerous occasions by waiting four hours before he was hit by a car to furnish medical care, ignoring his repeated requests for medical care, failing to address obvious signs of medical distress, and ignoring the duties of medical staff to treat and monitor his drug/opiate detoxification. Furthermore, Defendants failed to conduct any health screenings, to take appropriate measures to treat his detoxification, to appropriately monitor his health and to administer his medications and treatment as ordered.

112. The alleged conduct of Defendants was committed within the course and scope of their employment.

113. As a direct and proximate result of Defendants' breach, Mr. Pajas and Plaintiffs suffered injuries and damages causing great pain and leading to his death, as alleged herein.

114. The aforementioned acts and/or omissions of Defendants Bernal, in his individual capacity, Orozco, CFMG and Kaupp, were willful, wanton, malicious, and oppressive, thereby justifying an award to Plaintiffs of exemplary and punitive damages to punish the wrongful conduct alleged herein and to deter such conduct in the future.

SEVENTH CLAIM FOR RELIEF

Negligent Supervision, Training, Hiring, and Retention

(Survival Action – California State Law)

(Against Defendants County of Monterey, Steve Bernal, King City, Tony Sollecito, California Forensic Medical Group, and Does 1 through 20)

115. Plaintiffs re-allege and incorporate by reference paragraphs 1 through
114 as though fully set forth herein.

116. Defendants had a duty to hire, supervise, train, and retain employees and/or agents so that employees and/or agents refrain from the conduct and/or omissions alleged herein.

117. Defendants breached this duty, causing the conduct alleged herein. Such breach constituted negligent hiring, supervision, training, and retention under the laws of the State of California.

118. As a direct and proximate result of Defendants' failure, Mr. Pajas and Plaintiffs suffered injuries and damages as alleged herein.

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EIGHTH CLAIM FOR RELIEF

Cal. Civil Code § 52.1

(Survival Action –California State Law)

**(Against Defendants King City, Tony Sollecito, and Steve Orozco,
and Does 11-15)**

119. Plaintiffs re-allege and incorporate by reference paragraphs 1 through
118 as though fully set forth herein.

120. The California Constitution Art. I § 13 and the United States Constitution Amendment IV, guarantee the right of persons to be free from arrests without probable cause, unreasonable searches and seizures and use of unnecessary and excessive force on the part of law enforcement officers. Defendants King City, Tony Sollecito and Steve Orozco, by engaging in the wrongful conduct alleged herein, including but not limited to the use of unnecessary and excessive force, denied the rights to Plaintiff either directly or through their deliberate indifference, thus giving Plaintiff a claim for damages pursuant to Cal Civ. Code § 52.1.

121. As a direct and proximate result of Defendants' conduct, Mr. Pajas and Plaintiffs suffered injuries and damages as alleged herein and are entitled to statutory damages under Cal. Civ. Code § 52, as well as compensatory damages.

122. The aforementioned acts and/or omissions of Sollecito and Orozco were willful, wanton, malicious, and oppressive, thereby justifying an award to Plaintiffs of exemplary and punitive damages to punish the wrongful conduct alleged herein and to deter such conduct in the future.

NINTH CLAIM FOR RELIEF

Battery

(Survival Action – California State Law)

(Against Defendants King City, Tony Sollecito, Steve Orozco, and Does 11-15)

123. Plaintiffs re-allege and incorporate by reference paragraphs 1 through
122 as though fully set forth herein.

124. Defendants engaged in a battery of Mr. Pajas by hitting him with a police car, thereby touching him against his consent with intent to harm, where Mr. Pajas was in fact harmed by Defendants' conduct and a reasonable person in Mr. Pajas's situation would have been offended.

125. As a direct and proximate cause of the aforementioned acts of Defendants, Mr. Pajas was injured as set forth above.

126. As a direct and proximate result of Defendants' conduct Mr. Pajas and Plaintiffs suffered injuries and damages as alleged herein.

127. Plaintiffs' injuries entitle them to compensatory and punitive damages according to proof as to the individual Defendants and compensatory damages alone as to the County Defendants.

TENTH CLAIM FOR RELIEF

Wrongful Death – California Code Civ. Proc. § 377.60

(Against Defendants County of Monterey, Steve Bernal, California Forensic Medical Group, and Does 1 through 20)

128. Plaintiffs re-allege and incorporate by reference paragraphs 1 through
127 as though fully set forth herein.

129. Mr. Pajas's death was a direct and proximate result of the aforementioned wrongful and/or negligent acts and/or omissions of Defendants. Defendants' acts and/or omissions thus were also a direct and proximate cause of Plaintiffs' injuries and damages, as alleged herein.

130. As a direct and proximate result of Defendants' wrongful and/or negligent acts and/or omissions, Plaintiff incurred expenses for funeral and burial expenses in an amount to be proved.

131. As a direct and proximate result of Defendants' wrongful and/or negligent acts and/or omissions, Plaintiffs suffered the loss of the services, society, care, and protection of the decedent, as well as the loss of the present value of his future services to his wife and children. Plaintiffs are further entitled to recover

1 prejudgment interest.

2 132. Plaintiff Estate of Mark Vasquez Pajas Sr. is entitled to recover
3 punitive damages against individual Defendants who, with conscious disregard of
4 Mr. Pajas's rights, failed to summon and provide Mr. Pajas with medical treatment
5 meeting the professional standard of practice and failed to adhere to the legal
6 mandates of prisoner supervision.

7 133. The aforementioned acts of Defendants were willful, wanton,
8 malicious, and oppressive, thereby justifying an award to Plaintiff of exemplary and
9 punitive damages to punish the wrongful conduct alleged herein and to deter such
10 conduct in the future.

11 **ELEVENTH CLAIM FOR RELIEF**

12 **Negligence**

13 **(Survival Actions – California State Law)**

14 **(Against Defendants County of Monterey, Steve Bernal, King City, Tony
15 Sollecito, Steve Orozco, California Forensic Medical Group, Christina Kaupp,
16 and Does 1 through 20)**

17 134. Plaintiffs re-allege and incorporate by reference paragraphs 1 through
18 133 as though fully set forth herein.

19 135. Defendants failed to comply with professional standards in the
20 treatment of Mr. Pajas's serious medical illness by failing to provide him evaluation
21 or treatment for being hit by a police car, failing to appropriately assess and
22 evaluate his medical needs, ignoring repeated requests for medical care, failing to
23 address obvious signs of medical distress, failing to provide appropriate medical
24 treatment, failing to adopt the minimum policies, procedures, and training necessary
25 to ensure identification or and response to medical emergencies, and ignoring the
26 duties of medical staff to treat and monitor his drug/opiate detoxification.
27 Furthermore, Defendants failed to conduct any health screenings, to take
28 appropriate measures to treat his detoxification, to appropriately monitor his health

1 and to administer his medications and treatment as ordered.

2 136. Defendants also failed to appropriately supervise, review, and ensure
3 the competence of officers, jail staff, and medical staffs' provision of treatment to
4 Mr. Pajas, and failed to enact appropriate standards and procedures that would have
5 prevented such harm to him.

6 137. Together, these Defendants acted negligently and improperly,
7 breached their respective duties, and as a direct and proximate result, Mr. Pajas and
8 Plaintiffs suffered injuries and damages as alleged herein.

9 138. The negligent conduct of Defendants was committed within the course
10 and scope of their employment.

11 139. The aforementioned acts and/or omissions of Defendants Bernal, in his
12 individual capacity, Sollecito, in his individual capacity, Orozco, CFMG, and
13 Kaupp, were willful, wanton, malicious, and oppressive, thereby justifying an
14 award to Plaintiffs of exemplary and punitive damages to punish the wrongful
15 conduct alleged herein and to deter such conduct in the future.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs pray for the following relief:

18 1. For compensatory, general and special damages against each
19 Defendant, jointly and severally, in an amount to be proven at trial;

20 2. For damages related to loss of familial relations as to Plaintiffs
21 Rosemary Lopez, Yvette Pajas, Mark Pajas Jr., Janel Pajas, and Xavier Pajas;

22 3. Funeral and burial expenses, and incidental expenses not yet fully
23 ascertained;

24 4. General damages, including damages for physical and emotional pain,
25 emotional distress, hardship, suffering, shock, worry, anxiety, sleeplessness, illness
26 and trauma and suffering, the loss of the services, society, care and protection of the
27 decedent, as well as the loss of financial support and contributions, loss of the
28 present value of future services and contributions, and loss of economic security;

5. Prejudgment interest;

6. For punitive and exemplary damages against each individually named Defendant and all Defendants for which punitive damages are available under the law in an amount appropriate to punish Defendant(s) and deter others from engaging in similar misconduct;

7. For costs of suit and reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, and as otherwise authorized by statute or law;

8. For restitution as the court deems just and proper;

9. For such other relief, including injunctive and/or declaratory relief, as the Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury in this action.

Dated: February 25, 2016

Respectfully Submitted,

RIFKIN LAW OFFICE

HADSELL STORMER & RENICK LLP

By: /s/ - Dan Stormer

Dan Stormer

Lori Rifkin

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Attorneys for Plaintiffs